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## PORTRAIT OF A DEMAGOGUE.

From an address by President Schurman of Cornell.

Unhappily for Rome, a self-constituted savior of society appeared who had eyes to see that the times were out of joint and conceals to believe that he was born to set them right. He was a man of impulsive temperament who could not even appreciate a sincere difference of opinion in an honest opponent.

Vain, self-confident, reckless, autocratic, he was also thoroughly honest and deeply persuaded of his own good intentions. And, as fate would have it, he possessed the gift of eloquent speech. This man, who thought himself foreordained by the gods to be the representative of Rome, was Tibullus Gracchus.

The historical results would have been entirely different had not Tibullus Gracchus lacked a just sense of reality, a knowledge of business and a perception of the dominance of natural law in the sequence of economic phenomena, and had he not injected into a grave and complex question of Roman politics a personality of boundless self-confidence and autocracy, equally impatient of opposition and incapable of judicial investigation and consideration.

## To the Friends of the Established Government.

The recent gains of Colonel Roosevelt in the contest for delegates carry a lesson not the less worth considering seriously and attentively because it is so obvious. Illinois and Pennsylvania mean that the gravest danger which has confronted the nation since the civil war for disruption is not yet finally averted. Such notable successes as were won last week for the third term candidate and pledge breaker by his political managers in several States, while leaving President Taft still far in the lead for the nomination, indicate the existence of conditions, political or psychological as we may choose to regard them, as menacing in their way as is the attitude of the ambitious politician who is now carrying around the firebrand. The situation does not suggest discouragement or compromise, but it is sufficiently impressive to indicate renewed activity and resolute purpose on the part of all those of our fellow citizens of the Republican faith who desire that the Government and the institutions which we possess shall be safeguarded against the fatal beginnings of revolution.

## The Treaty of Fez.

Within the past few days there has been signed at Fez the latest but not the final Moroccan treaty. The document which passed between the French representative at the Sherifian capital and the Sultan is an almost exact reproduction of the treaty of the Bardo of 1881, by which the Bey of Tunis accepted French supremacy in his realm. With the knowledge of the subsequent history of Tunis at hand it is not hard to forecast the future of Morocco.

But if the treaty of Fez loses significance by comparison with those of Algiers and Berlin, which followed crises in Europe and averted war between the great Powers, it still possesses an importance to the French that it is hard to overestimate. By it France obtains instant and complete control of the local machinery of government, henceforth the Sultan becomes a French instrument and the Maghzen an ornamental and empty thing, but possessing them France is spared the danger and the difficulty of dealing directly with an alien and fanatical population.

It is because Italy lacks these instruments that the Tripolitan war has developed into a religious struggle, a battle between Christian and Mohammedan civilizations in which the lines are squarely drawn with the result that Italy is still without native allies. By dismissing the Dey of Algiers after capturing him France made a similar conflict inevitable in Algeria and thirty years of constant struggle followed, whereas in Tunis she retained all the existing authority and reorganized the Beylicate under its cover.

With an army of over 30,000 troops in Morocco now on the day of the signing of the treaty the Sultan reviewed 5,000 who constitute the garrison of Fez—with the Sultan guaranteed in his title and his revenue and relieved of the perils of the past, with all the machinery of native rule in her possession, France can now proceed to repeat in the Sherifian Empire the achievement in Tunis. Rulings among the mountain tribes, isolated revolts in various provinces are inevitable, but by this treaty and its physical consequences France avoids the danger that the native ruler in his office might become the rallying point

if not the leader in a national uprising, of a Moroccan holy war. Actual progress in Morocco will probably wait upon the final partition of territories between France and Spain, which will open the way for railroads. But even this delay cannot be long now, and the treaty of Fez removes the possibility that France might have to conquer her sphere after it had been marked. The treaties of Algiers and Berlin will always overshadow that of Fez in international importance, but in the history of French progress in North Africa the Moroccan treaty is perhaps bound to be of more lasting influence.

## Journalistic Ethics Again.

We note with a proper lack of respect what our contemporary the *Times* has to say in defence of its appropriation on September 2, 1909, of not only the substance but also the literary form of the illustrious Dr. Cook's polar narrative, in spite of the *Herald's* notice of ownership by purchase and claim of full copyright. The *Times* explains that it received the matter thus appropriated "as a part of the regular foreign service of the Associated Press." It has been advised that there was no "violation of any copyright," presumably on the technical ground that the *Herald's* purchased property was appropriated in French rather than in British jurisdiction.

Thus easily our contemporary brushes aside the unplesant incident and to its own satisfaction, at least, shifts the moral odium of the transaction upon the conscience of the news collecting organization which acted as its agent in Paris. It then gravely proceeds to call again for "the sympathy and support of every reputable publisher" in its avowed purpose "to secure a judicial determination of the question whether the property right acquired by the purchase of articles for exclusive publication in newspapers can be established and protected under the copyright laws."

This is impressive, but we prefer to leave to the *Times's* victim, the *Herald*, the duty of analyzing the merely ethical questions involved in this interesting case of parasitism. The *Times* seems to cherish the idea that because its agent and itself supposed they were successfully evading legal restrictions when they appropriated and received and published in full literary form the property which the *Herald* had bought and paid for the incident is therefore removed from all logical connection with the noble altruistic intentions which the *Times* is now professing.

We do not share this view of relevancy. We must ask permission, accordingly, to pass on to the *Herald* the proud opportunity to head the subscription list of "sympathy and support."

## The Park Lawns.

Park Commissioner STOVER may well tremble as he contemplates the certain effect on himself of his efforts to conserve the grass in the park lawns. A monster who would deprive the people of its right to convert a park into something it was not intended to be, a heartless despot rudely despoiling childhood of its happiest moments; a brute who would condemn the women of the tenements to misery and suffering merely to preserve a few patches of turf for the benefit of the indecently rich; Mr. STOVER may survive the assaults his order will bring upon him, but his sensibilities are bound to be seriously bruised.

Nor will he suffer alone. The policemen who enforce the order, the magistrates who punish its infractors, and all who do not join in denouncing it, may expect no kindly treatment. And what will happen when the time honored May party or June walk finds the turf barred to it and must restrict its merry-making to the hard asphalt or the brown and unyielding surface of an athletic field?

This is important. Not only will the children and their proud parents taste disappointment, but if these frolics are robbed of their favored setting what nursery will produce statesmen in the future? How many ornaments of public life does the town owe to the fact that O'Rourke gave more ice cream to the youngsters than did McMahon? It would be an endless task to compile the roster of famous administrators and great legislators who first demonstrated their capacity by going a-May-ing without losing a child from the procession or having to call a physician to relieve an infantile stomach ache. Too, what newspaper readers do if deprived of their annual bucolics, not one lacking a skillful allusion to the surrounding city?

Serious, fateful questions; Mr. STOVER has thought deeper than he knew. We have long thought that the solution of the park lawn problem was to be found only in the property room of a theatre. The merry villagers never wear out the stage grass. Does the Park Department need more than a hint?

## The Patent Laws.

On April 11 a bill in duplicate was introduced in both House and Senate providing for a revision of the patent laws. The measure seems unduly radical and even dangerous, tending on the whole toward serious injury to an established and fairly satisfactory system rather than toward the installation of an appreciably better system.

On its face there is a certain reasonableness in a proposal that if an invention is not used within four years from the date of the issuance of a patent, no reasonable excuse being given for its non-use, the owner of the patent may be compelled to grant a license for its use to any applicant on terms deemed just and equitable by a district court. The scheme does not stand analysis in the light of industrial facts. The inventor is in the mind of many a somewhat picturesque individual, a genius who by the aid of a divine gift and a pocket knife or a few yards of wire and a shingle produces a device that revolutionizes an industry. He is not infrequently pictured as having been robbed of the fruits of his genius and his labor by some bloated

criminal monopoly that buys the patent for a song and a promise of royalty on all sales and then neither manufactures nor sells the device. The fact is that only a small percentage of the devices for which patents are issued have a particle of commercial value. A very large percentage of those having value are the product of expert specialists in the salaried employ of large manufacturing and producing concerns. Many of these specialists receive high salaries. They sell, at a price satisfactory to them, their time, their skill and the product of their brains. That product is patented. The patent is assigned to the employer. It becomes the property of the employer to use or to lock away as he sees fit. If he can be compelled to grant its use to a competitor it would seem equally right and proper to compel a land owner to rent a tract of unused land that he did not wish to rent.

Another provision seems intended to prohibit the owner of a patent from fixing minimum wholesale or retail prices on the article manufactured. This appears to be sound and reasonable but is in effect dangerous. The competition of wholesalers or retailers may drive the price down to a cost basis and the article may be dropped from stock because it is unprofitable. Under such a reasonably supposable condition the owner of the patent loses his business and the public loses the use of a convenient and desirable device. A very strong play to the gallery can doubtless be made by the proponents of a radical revision of the patent laws, but those laws are in fact a highly sensitive and delicate nerve in our industrial system. The protection afforded to inventors has perhaps added more to the wealth of this country than any other single influence. That there are occasional abuses may be admitted, but that in no way differentiates our patent laws from any other laws, civil or criminal.

It does not seem that the plan proposed affords any greatly needed protection either to the public or to the individual and independent inventor, and it does seem clearly to open new channels to abuse and injustice. A long established institution that has been of immeasurable value in our industrial progress should not be toppled over summarily just because a few people think they have discovered flaws in it. The measure will doubtless receive careful and deliberate scrutiny and a proper hearing will be given to parties at interest on both sides.

If all the energy that is expended by the Police Department in showing up the Judges and all the energy that is used by the Judges in showing up the Police Department were united and devoted to the policing of New York and the performance of judicial duties, what an attractive community this would be for criminals!

The Canadian "combines investigation act" which the Merchants Association has urged Congress to consider with the purpose of enacting a similar statute for this country has been in force for two years, a period too short for the complete demonstration of its usefulness, but the necessity for relief of the kind it is designed to afford is apparent to all business men. The association does not use too strong language when it speaks of the "incubus" resulting from the uncertainty of meaning and application of the Sherman anti-trust law. Under the Canadian statute six citizens may complain of an alleged oppressive or monopolistic or otherwise unlawful combination and nominate a commissioner to inquire into its conduct and purpose. The defendant also names a commissioner, who, with the other, chooses a third. The commission thus formed makes all necessary inquiries and reports to the court, which decides as to the legality of the combination assailed. Whether this is the best method of dealing with a problem as perplexing as it is important remains to be seen, but the almost pathetic eagerness of merchants and business men in all parts of the United States for relief of some sort from present conditions has another exemplification in the appeal to Congress.

A Georgia lawyer having had himself put in the chain gang to get first hand information as to the convict system was forced to begin work before daylight and to continue all day long. He found that "none of the convicts reads," and that "they seem to have a desire for books." Under all the circumstances the chain gang's neglect of even light literature is perhaps not a cause for astonishment.

The prison authorities of England describe the hearty sympathy of suffragettes and anti-alcoholists. If the latter are women prisoners who indulge in a "hunger strike" starve, the keepers are bound to be severely criticised. If forcible feeding is resorted to they are equally assailed. A sad life is that of the turnkey in Merrie England.

**Baseball Reform.**—At the opening game of the National League's baseball season at Brooklyn, it is estimated that thirty thousand tickets were sold. The seating capacity of the grounds is about fifteen thousand, and perhaps there is standing room on the benches and in the galleries. The present playing field. Something like ten thousand people were provided for and a good many of these were disappointed at the game. The fact forced upon the management is that the crowd of the playing field and general hiving of the management.

The Police Department still maintains that a private conversation must be for its own police, no matter how many thousands of people are implicated on a particular day at its grounds. If Mayor Gaynor hadn't sent in a call for the removal of the money paid to the police for a baseball game, and if such sales had been made, the police would have been turning away the applicants after the capacity of the grounds had been reached is a less evil than a homeless jam.

**Washington's New Promenade.**—From the Boston Advertiser. Connecticut avenue, which has so long held sway as the promenade of Washington, is becoming such a business thoroughfare, much like Fifth Avenue in New York city and Boylston street in Boston, that it is being more and more disliked as the most delightful thoroughfare for fashionable walking in, and sixteenth street is taking its place. This is one of the great avenues of Washington leading north from the White House and the Executive mansion to the city.

It is especially popular late in the afternoon. Then some of Washington's more celebrated men may be seen on it. President Taft makes this his home after his daily ride to the White House between 8 and 9 o'clock. The Brazilian Ambassador likes to walk on the street, and among the host of carriages may be seen the residence of the Viscount of Alagoas and the Viscount of Rio Branco. The Russian Ambassador in this Russian city is also one of the exceptional afternoon incidents of the street.

**A Recall as is a Recall.**—To THE EDITOR OF THE SUN.—SIR: I have been about to summon the Hon. Dink Rott, Hon. George Sanders and the Hon. Potito Grubbs back on the job. VOTER.

**Answered.**—Fond Relative—What will you do when you grow up? Johnny—I s'pose I shall be an information desk; folks are always asking me such fool questions.

**The Judiciary.**—Knicker—Changing a single letter makes a big difference. Bocker—Yes, you're right to say so.

**Snowstorms of Etna.**—Early in July there occurred snowstorms in certain very warm regions, notably about Mount Etna, which at this time begins to scatter the accumulation of snow which that volcano has conserved during the winter. The crater of Etna is 3,279 meters in height, and during the winter months the snow piled into the crevices of the mountain, to be driven out by the summer winds.

**Accomplishment.**—Knicker—Can he make two blades of grass grow where only one grew before? Bocker—No, but he can borrow a lawn mower where nobody ever borrowed one before.

than in the sixth decade, when he might be rheumatic and less energetic, even less combative. At 46 he is fairly fresh and youthful. A vacancy now exists in the list of Major-Generals. FUNSTON is by no means the only competent Brigadier. Any one of the fourteen is worthy enough. He is not so well schooled as some of the others and not the handsomest. But he is an intrepid, a fighting officer, and as diligent and earnest in his business as any. The question does not seem to be which one of the other Brigadiers should be promoted, but why FREDERICK FUNSTON should not be.

**A Pettifogger of the Constitution.**—Colonel ROOSEVELT has publicly denounced JOSEPH H. CHOATE, the most distinguished lawyer in the United States, as a pettifogger of the Constitution. Mr. CHOATE was president of the New York constitutional convention of 1894, which formed the Constitution which Colonel ROOSEVELT swore he would support when he was Governor of New York in 1898 and 1900.

Now Colonel ROOSEVELT is storming up and down the country calling the New York Court of Appeals a bulwark of social injustice and privilege because the Judges, having taken the oath of fidelity to the State Constitution, felt constrained thereby to declare that a particular law was beyond the power of the Legislature to enact.

If Mr. CHOATE favored the review of judicial decisions by popular vote and the nomination of THEODORE ROOSEVELT for a third term he would be the most progressive and enlightened constitutional lawyer in the length and breadth of the land; as it is, he is simply a pettifogger of the Constitution.

As to the application of this epithet to the honored and venerable leader of our bar, we have no observations to make.

At these words of the arch-enchanter the fury of the crowd was raised to such a pitch that many of them actually started in their minds to burn the real court house across the way from the platform.

"This is a strong statement," continued the speaker. But it was too late to explain and finish, for the train had to go, leaving the mob with its passions enflamed. Then the King ascended into his splendid private car and rolled away on his grand special train.

"Speaking of privilege," began simple Seth Block, "what a bunch of money you seem to be behind you, today. Almost as much as you got out of Harvard in the old days. Where in sheol would you be if you had not been 'protected by privilege'?"

"I didn't bring you along to argue with me," said King Khakhi in a rage. "Fools can ask questions which wise men can't answer."

"I reckon that's right," said Seth, "but I wonder if some of those jaybirds in the crowds ever wonder whose money foots their own travel bills? The train was waiting for the hell roper and Seth was left on the ties."

**THE SCHOOL TEACHER.**—An Appreciated Message in Behalf of Those Who Guide the Young. To THE EDITOR OF THE SUN.—SIR: Your graceful compliment in the *SUN* of today to the school teachers of this great city is a general and a special compliment. The general one is to the teachers of the city of New York, who are the backbone of the public school system, and the special one is to the teachers of the city of New York, who are the backbone of the public school system.

I am convinced that the teachers' part in the education of the child is the most important part. It is the teacher who is the backbone of the public school system, and it is the teacher who is the backbone of the public school system. It is the teacher who is the backbone of the public school system, and it is the teacher who is the backbone of the public school system.

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## NOVELLETES OF THIS TIME.

After the Coronation in Cook County. "Hooked 'em under the chin in Illinois," said King Khakhi, "and I made 'em go to the mat and toss up the sponge."

Having delivered himself of this truly deplorable conception of what he had accomplished, he shook hands with the crowd. They had a mook court room prepared for him on the platform and he went up and kicked over the Judge's bench and upset his chair, and the crowd cheered.

"Mosses, Choate and Lorimer don't approve of this," said the King, sneeringly. One of the audience asked if he really wished to put Mr. Choate and Mr. Lorimer in the same class with the eyes of the voters of the United States, and by way of reply the King added the name of the President to that of Lorimer.

"I never hit above the belt," said the King, "because I don't know how. I can only repeat that I am more of a prize-fighter than I am anything else. Lincoln was a handy man with the gloves, even kicking below the belt was fair in his day, and I mean to do the same."

Then the crowd passed him up an effigy of the Judge.

"These worthy gentlemen spoke as if the Judges were somehow imposed on by heaven and were responsible only to heaven."

Then he gave the effigy a kick and threw him down where he had upset his bench and the seat of justice. And the crowd cheered again, and the groundlings yelled and the parasites approved. It was a sight such as to make any American proud in the presence of a foreigner.

"These gentlemen are genuinely unable to understand justice."

At this glowing and glaring statement the crowd leaped upon the fallen bench and seat and trampled them into kindling wood and dragged the effigy of the Judge out of the door.

"These gentlemen are genuinely unable to think of a Judge except as an instrument devised to protect privilege against the rights of the people."

At these words of the arch-enchanter the fury of the crowd was raised to such a pitch that many of them actually started in their minds to burn the real court house across the way from the platform.

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## TO REMEDY THE LAW'S DELAYS.

Practical Suggestions Based on the English System. To THE EDITOR OF THE SUN.—SIR: That the proverbial law's delays which have been the subject of just criticism for generations of lawyers and which as a matter of fact are far less than formerly and possibly much less than in New York than in many other States, have resulted at last in serious efforts to find an adequate remedy is an encouraging sign. Not less important, perhaps, in the interest of expedition in the disposition of cases in and through the courts than the character of practice which have recently engaged the attention of the bench and bar is the question of preventing delay by the interposition of fictitious defenses, which under the hand of the skillful pleader may be so framed as while not subject to successful attack by motion as frivolous or insufficient may yet be in fact and essence untrue and inadequate and which could not stand if put to the test of even preliminary investigation.

The right direction is made by the comparatively recent amendment to the Code permitting a motion for judgment on the pleadings, as a substitute for the more lengthy proceedings by demurrer. In case defenses or allegations were insufficient to sustain the case, the motion would be granted, and the case would be dismissed, and the case would be dismissed, and the case would be dismissed.

It is safe to say that a very large percentage of the motions heard and determined at Special Term, Part I, of the Supreme Court involve questions arising under these provisions of the Code. There would seem to be no good reason, if properly protected from abuse, why the contents of a party's brief and an inspection of documents should not be a matter almost of course. It is conceivable that such right might in some cases be sought to be abused, that a lawsuit might be begun with a view to securing a knowledge of the contents of documents and papers or information which otherwise could not be obtained, or that litigants might take advantage of such examination before trial to apprise themselves of what the other side is prepared to testify to in order to arrange their own testimony or manufacture other evidence to overthrow it. These dangers are more imaginary than real. The right of cross-examination of witnesses is a necessary protection and anything more required will be found in the right of the courts to restrict the examination in special cases of attempted abuse of the right.

The English practice is far more liberal in this respect than our own, and with apparently satisfactory results. There the right of examination and discovery of documents is a matter of course. Where papers are referred to in a pleading the defendant is entitled to inspect them, and to take copies, and either party may on demand obtain discovery as to any document in the possession of his adversary relating to any matter in question unless the latter makes an affidavit that it relates exclusively to his own case and contains nothing relevant or tending to support his adversary's case or impeach his own. The distinguishing feature of their practice is that it throws the burden of restricting the discovery and inspection of documents on the party desiring to avoid it rather than, as with us, on the party seeking such discovery the burden of showing its necessity. Under our practice the examination of a party before trial at the instance of his adversary can only be had on an affidavit showing its relevance and necessity, and that the matter sought to be examined relates to the case of the applicant, while under the English system interrogatories are allowed as to all the matters either party proposes to rely on, and the party to be examined is compelled to answer to the best of his information and belief, and must ascertain the facts from his own knowledge, and not from the knowledge of his adversary, and must answer fully, and if the answers given are not full and complete the court may direct that fuller and more complete answers be given.

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## COLUMBIA'S SCHOOL OF JOURNALISM TO OPEN

Sept. 25 Next Will See the Inauguration of Joseph Pulitzer's Foundation.

## NEW BUILDING NOT READY

Students Will Be Accommodated in the University Buildings Until 1913.